



**U.S. Department of Justice**

*United States Attorney  
District of Massachusetts*

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Springfield, Massachusetts 01103

November 3, 2006

**By Fax & Regular Mail**

Joseph Franco, Esq.  
51 Park Avenue  
West Springfield, MA 01089

Terry Scott Nagel, Esq.  
95 State Street  
Springfield, MA 01103

Re: United States v. Cesar Cruz & Ricardo Diaz, No. 05-30042-MLW

Gentlemen:

In keeping with Judge Wolf's order on October 30, 2006, this letter responds to your discovery requests of October 25, 2006, and to your second motion for bill of particulars (*Docket Entry # 131*).

1. **Form 25s and Concurrence Letters**: We will produce the Form 25s. As to the concurrence letters related to payment information, we will not produce them. The letters are sent to the U.S. Attorney's Office by Agent Karangekis's superior, Michael G. O'Reilly, confirming this office's concurrence with amounts paid to the cooperator. Consequently, the letters are not *Jencks* material for Agent Karangekis. To the extent payment information is potential *Giglio* material for the government's cooperator, the amounts in the letters are purely cumulative of information already produced to you. If there is another theory of production that I am missing, please give me a call and we can discuss the issue.
2. **Written Authorizations from Senior Field Manager to Engage in Otherwise Illegal Activity**: According to Agent Karangekis, after a field agent submits a request for authorization to have a cooperator engage in illegal activity, the agent's supervisor does

not send back to the agent a separate document giving that authorization. The supervisor merely signs the request documentation submitted by the agent. There are three such documents in this case (the authorizations must be periodically renewed), titled, "Request participation in otherwise illegal activity." It appears they were produced to you, but we will produce them again. You will see a signature line at the end of each memorandum containing the signature of the SAC or ASAC designee.

3. **Findings of Necessity by JLEA Officials**: This finding is incorporated in each request for authorization to engage in otherwise illegal activity. You will see the AG Guideline language incorporated in the document.
4. **Video Recordings**: Agent Karangekis is compiling a library of the video recordings involving Mr. Rios. He will also create a reference document. We anticipate inviting you to watch the tapes at the FBI office, as opposed to making a copy of the entire set of recordings. It will take Agent Karangekis a few weeks to complete this task. Call me if there is a specific recording you want to see sooner.
5. **IRS Form 1099s**: The United States did not complete Form 1099s for Julian Rios.
6. **IRS Form 830s**: Mr. Rios has confirmed that he filed no tax forms related to payments from the FBI.

As to your motion for bill of particulars,

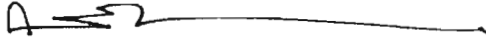
- A. The government does not allege the existence of unindicted co-conspirators.
- B. As to the end date of the conspiracy, the government's evidence will show that the conspiracy existed through at least on or about January 7, 2005, the date on which Mr. Diaz called Mr. Rios and asked him to buy drugs so Diaz could collect money for Mr. Cruz's legal defense. The conspiracy may have continued beyond January 7, but the government has no evidence proving a conspiracy beyond on or about that date, and will not argue at trial that the conspiracy extended beyond that point.

Call Sharron or me with any questions.

Sincerely,

MICHAEL J. SULLIVAN  
United States Attorney

By:

  
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Andrew E. Lelling  
Assistant U.S. Attorney

cc: Hon. Mark L. Wolf (via ECF filing)  
Sharron Kearney, AUSA